HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition no. 12-A (S/S) 2003
(Old No. 1578 of 1991)

1. Laxman Lal Verma S/o Sri Keshav Lal Verma,
   R/o village Talla Khola, Post Barakot, Pithoragarh,
2. Sri Deen Dayal Waldiya S/o Sri Maan Singh,
   R/o village Dawdar, P.O. Shilliung, Pithoragarh,
3. Sri Jagannath Gwasikoti S/o Sri Lallu Ram,
   R/o village Gwasikota, P.O. Dhapna, Pithoragarh,

----Petitioner.

Vs.

1. State of U.P. through its Secretary,
   Department of Uttar Pradesh Civil Secretariat,
   Lucknow.
2. Engineer-in-Chief, Irrigation Department,
   Uttar Pradesh,
3. Superintending Engineer, Irrigation
   Construction Circle, Almora,
4. Executive Engineer, Irrigation Construction Division,
   Lohaghat District Pithoragarh.
5. State of Uttaranchal through its Secretary,
   Irrigation Department, Secretariat, Dehradun,
6. Engineer-in-Chief, Irrigation Department,
   Uttaranchal, Dehradun, ----Respondents.

Sri C.D. Bahuguna, learned counsel for the petitioners.
Learned Standing Counsel for the respondents.

Hon'ble M.M. Ghildiyal, J.

Heard Sri C.D. Bahuguna, learned counsel for the petitioners as well as learned Standing Counsel for the State/respondents.

The petitioners who were appointed as Junior Clerks in the Irrigation Department, have challenged the orders dated 19.05.1990 passed by the Superintending Engineer, Irrigation Construction Circle, Almora, contained as annexure nos. 8 to the writ petition, by which the petitioners were reverted from the posts of Senior Clerk to the post of Junior Clerk.

Submission of the petitioners is that the petitioners were

appointed as Junior Clerks in the Irrigation Department vided orders dated 11.02.1979, 09.07.1979 and 03.01.1979.

On 11.08.1986, the respondents passed order that the posts of the petitioners are re-designated and they are being provided the pay-scale of Senior Clerk which is Rs. 430-685 with certain conditions. However, vide order dated 19.05.1990 passed by the Superintending Engineer/respondent no. 3, the petitioners were reverted to the post of Junior Clerk. Aggrieved with the order dated 19.05.1990, the petitioners filed this writ petition in the Allahabad High Court (Lucknow Bench) which is received by transfer to this Court.

It has been contended that the order of reversion was passed by the respondents without affording them any opportunity of hearing. It is not disputed in the counter affidavit that any opportunity of hearing was afforded prior to passing of the impugned orders. The petitioner have worked on the posts of Senior Clerk for a long period, therefore the petitioners should not have been reverted back without giving them opportunity of hearing.

I find force in the submission of the learned counsel for the petitioners.

For the reasons recorded above, the writ petition is allowed. The order dated 19.05.1990 passed by the Superintending Engineer, Irrigation Construction Circle Almora, contained as annexure no. 8 to the writ petition, is quashed. The petitioners shall be entitled for consequential benefits including arrears of salary of the post of Senior Clerk. No order as to costs.

(M.M. Ghildiyal, J.)

December 17, 2005:

NCM: